

ADEPT
Legal Commentaries

October 2003

Parliament Activity, 29 September - 3 October, 2003

8 October 2003

This week all the attention was focussed on several events, namely the visit of Moldovan delegation to Strasbourg, the speech delivered by the President and Foreign Minister to the CE Parliamentary Assembly, and the way the President handled the questions raised by PACE deputies, a lot of them being left without an answer.

The most important message sent by the President was that the only possible way to reunite the country was through federalization. A couple of days afterwards, during his visit to Canada, Russian Defense Minister stated that his country would probably ask for an extension of the deadline for evacuating Russian troops and munitions from Transdnistrian region. Experts believe such a statement wouldn't have been made without a prior consultation with Moldovan authorities, which made it clear at the Council of Europe that they were doing everything in their power to demilitarize the Transdnistrian region and for Russia to comply with OSCE resolutions.

During the aforesaid period legislative activity was rather quite, being disturbed only by some statements of the opposition regarding their stance on the Conception of National State Policy. Deputies examined several important drafts, and we will refer to some of them in greater detail below.

I. Resolution on establishing a Commission to examine the Conception of National State Policy

ADEPT Comment: The Parliament decided to establish a special commission that will collect all the recommendations and suggestions on the Conception of National State Policy of the Republic of Moldova. It is worth mentioning that the draft developed by the presidency was put forward for public debates and gathered much criticism from the civil society. Opposition in Parliament saw the Conception as an attempt to aggravate the situation.

It is believed that such kind of initiatives are aimed at diverting public attention from the real problems the incumbent ruling is confronted with, and to direct it instead to rather complicated issues that may not be settled within a certain period of time.

II. Law on Modifying the State Budget for Year 2003

ADEPT Comment: The amendments were made to allow for special transfers to the rayonal budgets of Dubasari and Causeni rayons. The funds are to be used for:

- Compensating the difference in tariffs on electricity and gas to the residents of localities to the left of Dniester, which are not under the control of the breakaway regime;
- Compensating the losses incurred by companies providing discounts to the residents of the aforesaid localities;
- Paying back the debts of the institutions funded from the rayon budgets to the energy distribution companies that provided discounts.

Noteworthy, earlier on the Parliament passed special laws granting certain preferences on electricity payments to the residents of localities to the left of Dniester under the jurisdiction of the Republic of Moldova. These preferences were aimed at compensating the difference in the tariffs for electricity in Moldova and Transdnistria.

III. Law on modifying legal acts regulating economic activity

ADEPT Comment: The following modifications were made:

- Companies are obliged to publish in the Official Monitor any changes in their name;

- Company activity might be suspended by the founders' decision only within the first three years, imposing registration of the suspension with the State Registration Chamber, publishing an announcement in the Official Monitor, ceasing fiscal and statistic reporting, prohibition to conduct any type of activity, etc;
- Registration of a new company may be denied if the applicant had previously registered companies that are not functioning or are suspended, until their full settlement;
- Registration decision may be cancelled only by the court ruling;
- List of documents to be submitted in order to initiate a liquidation procedure was established, etc.

The law is intended to better regulate entrepreneurial activity, as well terms of erasing from the state registry companies that are not functioning and only incur additional expenditures for the founding members. Also, the law would make the activity of control bodies much easier, given that unoperational companies are occasionally used for rapid money laundering, which makes it rather difficult to monitor them.

IV. Law on Modifying the Law on State Tax

ADEPT Comment: A state tax is to be paid when appealing final court rulings. This decision was taken given the high number of appeals since the enforcement of the new Civil Procedure Code. In its turn, this higher number of appeals is determined by the fact that the new Code does not provide mechanisms for appealing court ruling issued before its enforcement.

V. Draft law on modifying the Customs Code, passed in the first reading

ADEPT Comment: The modifications refer in particular to establishing a duty-free for the diplomatic corps. Many deputies opposed the modifications on the grounds that the number of diplomats accredited in the Republic of Moldova was insignificant to justify the creation of a duty-free. Moreover as a rule duty-frees are a source of irregularities, fiscal evasion, and other shadow economy schemes.

VI. Draft law on modifying the Law on Tourism

ADEPT Comment: Modifications define (around 35) functions of the Department for Tourism Development. Both opposition and several majority faction representatives objected the provisions on the sources of funding for Department activity, namely:

- Revenues from patents;
- Revenues from training and development services;
- Revenues from classifying institutions operating on the tourist market, etc.

Deputies considered that the said provision would determine abuses in controlling, patenting and classification. In a related note, state control bodies have taken center stage of discussion lately, in particular there are many discussions on the need to have one single law regulating all kinds of controls.

Parliament Activity, 6-10 October, 2003

13 October 2003

The Parliament convened only once during the aforesaid period, however it was sufficient to observe the growing political confrontation within the legislative body. Thus, opposition came up with a draft declaration *on the failure of the Russian Federation to comply with the resolutions of the Istanbul and Porto OSCE Summits*, and insisted on its examination during the plenary session. At the initiative of the Chair of the Parliament the issue was subject to voting, however it failed to gather a majority vote. Nonetheless, the draft declaration was made public at the end of the plenary session and it would be probably reexamined later on by the Parliament. Experts believe opposition intentionally comes up with initiatives that they know, far too well, ruling party would not endorse for either objective or subjective reasons. Definitely, behind the recent protest rallies in front of the Russian embassy, criticism of the Russia's stance in the negotiations on Transdnistrian conflict, lie some hidden motives, i.e. probing political issues subject to debates in the upcoming electoral campaign. Ruling party, on the other hand, adopted an awaiting strategy, nevertheless it resorted to the same strategy, however with a different goal in mind - resolving the Transdnistrian conflict at any price, by the upcoming elections. One may expect new info on the negotiation process to be released, in particular the draft of the joint statement of the conflicting parties on the principles of regulating the constitutional status of the breakaway region.

Besides major political problems, the Parliament examined several important drafts, and we will refer to some of them in greater detail below.

I. Law on Ratification of the Agreement on mutual protection and promotion of investments, concluded between the Republic of Moldova and Republic of Bosnia and Herzegovina

ADEPT Comment: The Agreement was concluded for a ten year period in view of boosting economic cooperation on the mutually acceptable terms. Among others the Agreement refers to:

- promoting and protecting investments;
- applying national and favored nation approach;
- nationalization and expropriation;
- compensation for losses, transfers, etc.

The Agreement also provides for the settlement of disputes between the contractual parties, etc.

II. Law on Modification and Completion of the Law on Imprisonment on Suspicion

ADEPT Comment: The modifications exclude the provisions allowing for compelled feeding of detainees. Compelled feeding is viewed as a kind of torture, as it is done against the will of the detainee. Furthermore, coercion methods involved upon compelled feeding sometimes are rather violent and besides the moral pain sometimes produce physical pain. However, the law allows for compelled feeding in cases when detainee's life is under threat.

III. Draft law on the state informational resources

ADEPT Comment: The draft establishes ground rules and terms for developing the infrastructure of informational resources in the Republic of Moldova, juridical matters in the use of IT, systems and networks.

The law does not apply to mass media, non-governmental IT, and undocumented data processing. It also defines some basic notions, such as: data base; electronic document; national domain,md; informatization; owner of the informational resources, information systems; information process; information product; communication network; information service; informational support; IT; subject of law, etc.

The law determines the subjects of law within its competence:

- documented information;
- information resources, including national domain,md;

- IT;
- software and hardware;
- information systems and networks, etc.

The law clarifies the notions used as well as establishes rules for handling different types of data and ensuring the security of information systems. Basic information resources include among others:

- State registry of the population;
- State registry of the legal entities;
- National Informational Geographic System.

Under the law, Information Technology Department shall be the sole body entitled to establish and use state information resources. This provision is likely to raise a lot of questions as, at the moment the said Department already holds a monopoly on state information resources; and it is likely to position the Department far better than other state bodies working in the field.

IV. Draft law on modifying the Regulation on settling matters related to the administrative-territorial division of the Republic of Moldova

ADEPT Comment: One of the most important modifications abolishes certain Government competencies in authorizing changes in the borders of the administrative-territorial units, in creating or dissolution of such units. As it stands at the moment, the situation is rather unclear, on the one hand any changes in the administrative-territorial borders are the sole competence of the Parliament upon prior consultation of the citizens, and on the other, under the Regulation it is the sole competence of the Government.

A string of problems may surface upon the enforcement of the said modification. In particular excluding the Government from the decision making, and leaving it in the sole competence of the Parliament, i.e. political, is not the best option since the Parliament is more guided by political interests rather than social and economic considerations.

V. Draft law on modifying and completing the Law on Publishing Activity

ADEPT Comment: Via those modifications Moldovan law is brought in accordance with international law norms. Certain aspects are to be clarified: notions, competencies of the Ministry of Culture, copyright, and protecting publishing rights. A separate article shall regulate the activity of the National Book Chamber and its data bases, which are the sole property of the state.

VI. Draft law on canceling the penalties imposed for the failure to transfer on time state social insurance contributions

ADEPT Comment: Under the modification, penalties incurred by 29 companies that had paid all the arrears to the social security budget are cancelled. The total amount of cancelled penalties is estimated at 1.7 million MDL, whereas the arrears paid by the companies at 5.8 million MDL.

Noteworthy, the list of companies include also state institutions and local public administration, namely: Statistics and Sociology Department; General Finance Department of Chisinau Municipality; General Security Department of the Ministry of Home Affairs, etc.

Parliament activity, October 13-17, 2003

20 October 2003

During the said period, Teleradio-Moldova institution and possible changes to its status have taken the center stage.

The draft law proffered by a group of Communist deputies has drawn wide-range criticism from opposition for an alleged attempt to subdue the newly established institution and to conceal the frauds made by the institution's leadership, which by the way had been appointed by the very same Communist majority.

Another controversial subject was the draft Resolution on the results of parliamentary commission's control over the IT Department. Again, opposition accused majority faction of concealing the fraud in contracting IT services and products required for the production of IDs of the citizens of the Republic of Moldova. In its turn, majority faction, replied that the disputed contracts had been signed under the previous governments, including the ones made up of the incumbent opposition.

Apart from political matters, deputies examined several important drafts, and we will refer to some of them in greater detail below.

I. Law on Canceling Penalties accrued for delays in paying state social security

ADEPT Comment: The law cancels the penalties accrued as of January 1, 2002 by the companies which do not have arrears to wage payment to its employees or state social insurance payments.

The penalties are estimated at 4 million MDL. The law refers in particular to state owned companies, municipal or cooperative enterprises, such as:

- "Seminte" joint stock venture;
- "Casa mobilei" Mall;
- Ministry of Industry;
- "Expo-Business Chisinau" Free Economic Zone;
- Thermoelectric Station no. 2 from Chisinau;
- "Fertilitate-Agro" state enterprise, etc.

II. Law on Publishing International Treaties

ADEPT Comment: Under the law, international treaties Republic of Moldova is part of shall be published in special publications of the Ministry of Foreign Affairs within one month of their enforcement. Legislative and normative acts thereby those international acts are approved shall continue to be published in the *Official Monitor* of the Republic of Moldova.

The thing is, under the Constitution international acts Moldova adhered to are part of the domestic legal framework, or even have a priority over it (especially in the case of legal acts related to human rights). Nevertheless, only the laws on their enforcement are officially published, whereas the international treaties themselves are rarely published and if published only with a limited turnout.

There were several attempts to solve the problem before, however because of the lack of funds all of them failed.

Under the law, each year the Government will allot a certain amount for special publications of the Ministry of Foreign Affairs. Nevertheless, the law may be never enforced because of the high cost of translation services, which may not be covered all from the state budget. One solution would be to resort to official acts translated into Romanian. However, this solution per se is questionable too as authorities refuse to acknowledge that Moldovan and Romanian are in fact one and the same language. Unfortunately, at the end of the day it will be the ordinary citizen who would have to suffer being unaware of the international provisions, especially those providing for rights and guarantees.

III. Law on the modification of the Code of Civil Procedure

ADEPT Comment: Modifications operated to law exclude the provisions prohibiting local councilors to practice as lawyers in the precincts they were elected. Initially those limitations were designed to prevent local government from subduing the judiciary, in reality though, they limited lawyer's prerogatives. Moreover, it left lawyers without any sources of income. This is the more important as the councilor position is not a paid job.

Noteworthy, seizing this opportunity opposition tried to lobby another amendment, thereby allowing MPs to practice as lawyers. The amendment was rejected on the grounds that deputies in Parliament are paid for their activity, moreover under the Constitution deputy position is incompatible with any other paid job, except for scientific or didactic activity.

IV. Law on completing the Law on Energy

ADEPT Comment: The activity of the energy overseeing body is to be funded out of the energy tariffs. Great many deputies, including those of the Communist faction, opposed the initiative on the grounds that it would increase the current tariffs, which would eventually affect consumers. Government representatives argued that at the moment state energy overseeing body was also funded out of the energy tariff, however this procedure was not provided for in the legislation.

V. Law on transferring summer camp in village Romanesti in return for debts

ADEPT Comment: Historic debts of the Mezon Company, worth 3.5 million MDL have been cancelled in exchange for summer camp in Romanesti village. Initially, the Government proposed the summer camp to be transferred into the property of the Youth and Sports Department, which in its turn would have transfer it into the property of the National Olympic Committee.

VI. Law on modifying the privatization plan

ADEPT Comment: Modifications refer in particular to excluding "Valogrvin" Company based in Hirtopul Mare from the privatization list and transferring it into the property of "Aroma" Company. Thus, Aroma Company would take hold of wineries, which would enable it to fill its stocks of raw material. Noteworthy, Aroma itself is included in the privatization list. Therefore the said modifications were operated in view of increasing its price and attractiveness in the eyes of potential investors.

VII. Resolution on the results of parliamentary commission's control over the IT Department

ADEPT Comment: The resolution calls on Government to:

- negotiate the annulment of the contract on printing an excessive number of ID forms;
- assess whether it's feasible to continue the leasing agreement on technological support, given that the IT Department already has the capacity to perform it itself;
- assess whether it is possible to grant, from Department internal resources, some discounts to certain citizens applying for ID.

The Resolution also calls on the Prosecutor General to investigate on missing ID forms as well as on the legality of the contract on printing an excessive number of forms.

VIII. Draft law on modifying the Law on "Teleradio-Moldova" audiovisual public institution

ADEPT Comment: Modifications refer in particular to:

1. The company shall have a bank account in commercial banks to administer extra-budget funds.
2. The two deputy chairpersons, one - General Director of the Radio and another of the TV, would stay just as executive director of radio and TV respectively.

3. The Company will have only one deputy chairperson, i.e. general producer.

The draft also provides for the liquidation of the "Teleradio-Moldova" company and firing its entire staff. The spin-off institution will take over only the assets but not the liabilities. The debts are to be recovered based on a special mechanism drawn by the Government.

Opposition, backed up by the "Teleradio-Moldova" employees protested against the lay-offs and annulling the company's debts. Majority faction, though, claimed that those modifications would allow the company to operate under new conditions. The draft was passed in the first reading, the next reading being postponed until the expertise and recommendations of the Council of Europe are received.

Parliament activity, October 20-24, 2003

27 October 2003

To begin with it is worth considering the major events taking place on the political scenery.

Firstly, let us consider the speech delivered by Polish President, Aleksander Kwasniewski on October 23 in the Moldovan Parliament. Apart from the fact that he started and closed his speech in Romanian that garnered him a rich applause Polish President made several remarks that are very beneficial to Moldova. Citing Molotov-Ribbentrop Pact that left victims both in Moldova and Poland, Kwasniewski stated that Poland learned a lesson from its past and that the prosperity of the country was mainly due to tolerance and open dialogue between political actors. An illustration of this were the negotiations within the Round Table that enabled a smooth transition to a new political system in Poland.

The President also stated that:

- supporting Moldova in its EU accession efforts was a priority for the entire Europe and Poland in particular;
- NATO extension should not be viewed as threat, as it would only bring stability and security to the region;
- EU frontiers which in 2004 would lie on the Prut river should not be viewed as rigid and distancing Moldova from Europe, rather for this to happen joint efforts should be taken;
- there is no other option than European integration at the moment, and Moldova should follow this road.

Secondly, each Parliament session is full of political declarations, both of the majority faction and opposition. Again, "Teleradio-Moldova" issue has taken center stage. Previously opposition used only to criticize the draft law on the state company liquidation, now they are openly blaming the ruling party for the poor state of affairs in the company, in particular poor financial administration of the State Company. Noteworthy, it was under the leadership appointed by the majority faction that great debts were incurred, which now are to be recovered from the state budget.

In its turn, majority faction accused opposition of politicizing the issue of Teleradio-Moldova. Several opposition members attended protest rallies staged by the company employees.

There are several reasons to believe that the state of affairs would deteriorate even further, given the approaching hearings on the state budget, approaching deadline for Russia to evacuate its troops from Transnistria. It is to be expected that both majority faction and opposition would resort to some tough measures, however not too tough as long as Moldova holds the Presidency of the Council of Europe Ministerial Committee.

Apart from political matters, let us now consider the legal acts examined by the Parliament.

I. Law on Completing the Law on Notary

ADEPT Comment: The law entitles registrars of the State Registration Chamber to provide several notary services free of charge, namely:

- certifying founding acts of the enterprises, modifications and completions to the state registry of enterprises;
- legalizing copies of the founding acts of the enterprises, excerpts thereof, and state registration certificate kept in the Chamber archive.

Citizens requesting the said services would have to pay just the state tax, and will be exempted from the notary fee.

Government did not endorse the draft, this refers in particular to the Ministry of Justice. Nevertheless, deputies considered that small-to-middling business would benefit of the said modifications. Also deputies claimed notaries were unjustly charging high fees for the services registrars would now provide free of charge. To put it

differently, notaries opposed the draft through the Ministry of Justice where they have people lobbying their interests.

II. Law on exempting from VAT construction works at several museums

ADEPT Comment: The law exempts from VAT construction and renovation works at the Capriana Monastery, "Badea Mior" monument in Soroca, and monument in Serpeni. Construction and renovation of those monuments is funded from donations of the legal and natural entities. Minister of Finances, thus, refuted the allegations that the said works are funded from the state budget.

It is worth mentioning that two marathons (radio, TV) were organized to raise funds for Capriana Monastery. Various donations were made, the greatest one by the Minister of Transportation (at that time electoral candidate running for the Chisinau Mayoralty), who reported that ministerial enterprises donated funds and provided construction works worth 3 million Lei. Given that the said enterprises are state owned, one may conclude that the funds also were allotted from the state budget.

Mention should be made that restoration of the Capriana Monastery was initiated by the President of the Republic of Moldova and Moldovan Church Opposition claimed restoration would be entrusted to enterprises close to the ruling party, especially to the son of the President.

III. Resolution on approving the National Action Plan on Human Rights

ADEPT Comment: The Action Plan developed with the financial support of UNDP office in Moldova is intended to improve human rights in Moldova. It includes the following chapters:

1. General provisions: legal framework, current state of affairs, goals and objectives, implementation, etc;
2. Actions to be taken: adhering to relevant international structures; actions in the main fields (labor, education, environment, minorities' and detainees' rights, equal opportunities, etc);
3. Perfecting national legislation in the field;
4. Monitoring the implementation of the plan.

A number of experts are skeptical with regard to the implementation of the document, especially as there are no funds allotted. One of the suggested solutions was to apply for funding to foreign donors. However, the financial aid provided to Moldova has considerably dropped lately. It would have been more appropriate the \$100,000 to be spent on the enforcement of the plan, rather than on its elaboration.

IV. Draft law on the sample-statute of the village (commune), city (Municipality), passed in the first reading

ADEPT Comment: The draft is part of the legal framework regulating local public administration. Sample-statutes of the village (commune), city (municipality) shall serve as a legal basis for the statute of the administrative-territorial units.

The statute will include specific elements distinguishing a certain locality from others, such as:

- name of the locality, area of the administrative territory, boundaries of administrative territorial unit, residence of the locality;
- name of the localities within the unit, in the case of cities - name of villages and localities part thereof - lay out, graphic representation and description;
- territory under the jurisdiction of the local council and mayor; historic data about the locality - date of establishment, lay out of the locality, land in property and owners thereof;
- number of residents, including in the localities part of the administrative-territorial unit, ethnic representation;
- local council and mayor, address, number of councilors and mayoralty apparatus;
- patrimony of the administrative-territorial unit, in qualitative and quantitative terms;
- institutions in the field of education, culture, healthcare, social assistance, press, radio, TV, etc, other data related to the locality history;

- existing communication channels, closest railway and maritime station or airport and the distance to them;
- services of the local public administration (mandate, responsibilities, subordination);
- indicators on small business, industry, commerce and agriculture;
- public associations and trade unions active in the locality;
- media outlets informing residents of the village (commune), city (municipality) on the activity of local public administration;
- planning and cleaning of the administrative-territorial unit, etc.

Also, the statute provides on ways administrative-territorial unit patrimony may be administered by the municipal enterprises and public institutions, i.e. concessions, rent, or lease.

Moreover the statute provides for:

- criteria used by local council when purchasing or selling goods in the village (commune), city (municipality) patrimony;
- methods of drafting the budget of the village (commune), city (municipality), reporting and enforcement, as well as of collecting local taxes, fees and other payments;
- criteria for selecting "honorary citizens" for special political, cultural, economic and social merits, their rights as well as conditions and procedure of withdrawing this status;
- conditions for cooperating and associating with other local public administration bodies at home or abroad in view of promoting mutual interests, etc.

Another extremely important provision stipulates that residents of the village (commune), city (municipality) shall be consulted in a referendum on the major issues for the administrative-territorial unit. Referenda, reunions and consultation of citizens, and public hearings may be held in all the localities part of the administrative-territorial unit, or only a part thereof. Citizens' reunions shall be organized in each village - in rural areas, and in each district or street - in urban areas.

V. Draft law on approving the frame-regulation on establishment and functioning of local and rayon councils, adopted in the first reading

ADEPT Comment: This document is also part of the acts necessary to ensure normal functioning of the newly-reformed local public administration. It consists of two chapters:

1. Establishment of councils: procedure of establishing local and rayon councils; establishment and activity of specialized commissions of the council.
2. Sessions of the local and rayon councils: responsibilities of the chair of the meeting and council secretary; conduct of sessions; procedure for drawing draft decisions; voting procedure; questions, appeals, petitions and informing councilors.

The regulation also includes an appendix providing that specialized commissions of the local and rayon councils may be established in the following fields of activity:

- Agriculture and industry;
- Economy and finance
- Socio-cultural activity, tourism and religion
- Environment, territory planning
- Education, social protection, healthcare
- Law and discipline.

The regulation entitles council to establish specialized commissions in other fields as well, or to have one commission work on two or more fields.

The law provides that based on the frame-regulation local and rayon councils would develop their own regulations.

Although such regulations exist at the moment, experts believe that such a detailed specification of the local and rayon council activity is nothing but an interference in their activity and limitation of their mandate. This in itself runs counter to the international legal framework in the field.

Noteworthy, during the debates in Parliament no mention was made that the document had been submitted for the expertise of the Council of Europe.

Parliament activity, October 27-31, 2003

3 November 2003

In the past week debates on Law on the State Budget for 2004 took the center stage. One of the most controversial issues was the initiative to raise the land tax and cancel reduction on VAT payments on import of agricultural equipment, seeds, and raw material for medicines. Government proposed to increase the land tax and cancel reductions on VAT in order to accrue more revenues to the state budget, fact that garnered rich criticism from farmers. Opposition was quick to take advantage of this state of affairs.

To oppose the said changes, "Moldova Noastra Alliance" faction even tried to held protest rallies, fact that made the ruling party react promptly and try to calm down the spirits. First Communist deputies, and later on the President himself, suggested to preserve the current reductions to VAT and give up raising the land tax. Therefore, Government would have to seek ways to cover for the 300,000 MDL it hoped to raise thereby, which wouldn't be an easy task especially as there are bleak predictions for foreign credits.

Apart from the Law on the State Budget for 2004, the Parliament passed other important pieces of legislation.

I. Law on Ratifying the Penal Convention on Corruption

ADEPT Comment: The law ratified Penal Convention on Corruption, adopted by Council of Europe on June 24, 1999. In addition a declaration was adopted stating that Convention shall not have legal effect to the left of Dniester river until a complete resolution of the conflict.

Together with Civil Convention on Corruption the said document are very important pieces of legislation for the member-states as they provide practices to be employed in fighting corruption. In the general provisions, the Convention provides that Council of Europe member states fully comprehend the need to have a joint penal policy aimed at protecting the society from corruption, including via passing appropriate laws and taking appropriate measures. The provision goes on saying that corruption threatens democracy, rule of law, social equality and justice, impairs competition, hinders economic development and threatens the stability of democratic institutions and society morale principles.

The 40 articles of the Convention refer to: notions; actions to taken by each member-state; monitoring Convention enforcement; mechanisms of international cooperation, etc.

II. Law on Modifying Legal Acts regulating state fiscal and budgetary policy

ADEPT Comment: The said law was submitted together with the Law on State Budget for year 2004. Under the Law more than 20 articles of various legal acts are to be amended. In particular, the following acts will be amended:

Law on Privatization. Amendments provide that revenues from the privatization of public patrimony shall be transferred to the state budget; revenues from the privatization of the public patrimony in the possession of administrative-territorial units shall be transferred to their budget; revenues from the sale of the patrimony of institutions funded from various budgets shall be transferred thereof; and revenues from the sale of state shares on companies undergoing privatization shall be used for covering the budget deficit.

Law on entrepreneurship and enterprises was amended so as illegal revenues incurred, by overstating production costs, profitability, sales margin, amount of construction works, and fees on the services rendered, as well as penalties set in amount equal to the revenues incurred shall be transferred to the state budget.

Law on Local Taxes was amended so as agricultural enterprises having revenues from the production and sale their own agricultural products shall not pay local taxes set by the local public administration.

A provision exempting copyright from VAT was excluded from the **Law on Copyright**.

Law on Road Fund was amended raising taxes for transit on national and international highways, tax on passing highways, tax for issuing authorizations, etc.

Article 6 of the **Fiscal Code** was amended whereby income tax and taxes payable to the road fund shall be transferred to the state budget, whereas estate tax shall be transferred to the budgets of the administrative-territorial units.

Amendments to the Fiscal Code reduce the quota on income tax, as follows: 10% for annual income below 16,200 MDL; 15% for income ranging between 16,200-21,000 MDL, and 22% for income exceeding 21,000 MDL. A quota of 20% was established for the income tax payable by legal entities.

As it was already mentioned above that deputies rejected Government initiative to cancel in 2004 the reductions to VAT on the important of certain goods as well as raise by 0.3 lei per hectare the land tax, on the grounds that the move would skyrocket the prices on agricultural and pharmacy products and would leave the farmers worse off. Experts claimed that the initiative would have allowed for a more balanced budgetary policy in the long run, however a year before elections the ruling party could not afford the luxury to take unpopular measures, regardless of their potential benefit.

III. Law on Changing the Deadline for Introducing Inspection before Expedition

ADEPT Comment: At the recommendation of the Government deputies excluded from the law the provision stipulating that within a month of the adoption of the Law on Inspection before Expedition the Government was due to select a company to render those services.

Thereby, Parliament suspended the Law on Inspection before Expedition, however enabled Government to proceed selecting a company whenever international monetary institutions would insist on it.

Noteworthy, the failure to enforce inspection before expedition in due time was one of the reasons why IMF did not resume crediting Republic of Moldova last summer. In its turn, the move determined WB as well as other foreign donors to suspend their crediting and assistance programs for Moldova.

IV. Law on Ratifying the second amendment to the Agreement between Republic of Moldova and "Dresner-Bank (Germany)" on surety of payment

ADEPT Comment: The law ratifies the amendment to the Agreement providing for restructuring Moldovan 2 million Euro debt, whereby the first installment worth 200,000 Euro is payable by February 2004, whereas the rest of debt is payable in 2005-2007. Republic of Moldova shall pay a 6% interest rate for the restructuring. It is worth mentioning that the credit was made to "Perfusun" joint stock venture to complete the construction of a pharmaceutical complex, however because of the incapacity of payment commencing 1999 Government surety was opened. Previously, poor management of the company was cited as one of the main causes of the incapacity of payment.

V. Draft law on modifying the Law on Licensing in the Field of Alcohol Production and Sale

ADEPT Comment: The draft envisages an impairment of the general norms whereby the license for production, storage and wholesale of ethyl alcohol and beer shall be issued for a 3 year period, whereas the tax established in the State Budget shall be paid in installments - 1/3 each year.

Previously the cost of the license was largely debated on in Parliament and was a major issue upon the adoption of the state budget for 2003. Alcohol producers and wholesaler insisted on lowering it, however deputies viewed that it was quite reasonable as it brings quite a profit. Still the said amendment is favorable to the companies working in the field, but it might prove detrimental to the state budget.

VI. Draft law on the modification of legal acts on the use of Russian language in patenting

ADEPT Comment: The draft provides that natural entities may submit application documents either in state language or in Russian, whereas legal entities only in Russian. The modifications were necessary in order to bring the legislation in accordance with the Law on Minorities Rights.

ADEPT previously reported on the opinions of various experts claiming that while the ruling party failed to operate amendments to Constitution, so as to grant an official status to the Russian language, it succeeded in legalize Russian language in various acts such as the Law on Civil Status Acts, Law on Notary, Law on Minorities' Rights, etc. The draft completes the string of laws aimed to prove to Russian minority that the ruling party is trying to fulfil its electoral promises, despite the internal and external opposition.

VII. Draft law on canceling penalties and sanctions accrued by cooperative enterprises

ADEPT Comment: The draft passed in the first reading envisages canceling penalties and sanctions on the debts payable by the cooperative enterprises to the national public budget (state budget and social security budget) as of January 1, 2003.

It is worth mentioning that the law was examined on the eve of the Ordinary Congress of Cooperative Societies attended by the President of the Republic of Moldova. President pledged authorities'support in boosting cooperatives. Noteworthy, previously representatives of cooperative enterprises backed up by opposition in parliament stated that the incumbent ruling intended to nationalize the property of cooperative enterprises and replace their leadership with more loyal people.